

REMARKS

The claims have been amended in a sincere attempt to place the case in condition for allowance. The term "cosmetic effect" in claims 12 and 18 has been revised based upon the language from claim 14, which is now canceled. A new method of use claim (claim 24) has been added as well. Thus, the claims before the Examiner are claims 12, 13, 15, 16, and 18 to 24.

The claims were rejected under the second paragraph of 35 USC 112 as indefinite, the Examiner stating that the term "cosmetic effect" was indefinite. The Examiner did state that, with the exception of the term "reducing effect", the Examiner did understand and appreciate the various properties recited in claim 14. It is respectfully submitted that "reducing effect" is a well-understood term and, in support thereof applicants enclose copies of pages from the CTFA Cosmetic Ingredient Book, First Edition, 1988. Pages 78 and 79 define various reducing agents and it is believed that the claims as amended are definite.

The rejection of claims 12 to 16 and 19 to 22 under 35 USC 102 or 35 USC 103 as unpatentable over Leibskind et al. '805, if applied to the claims as amended, is respectfully traversed. Claim 12 has been revised to recite that the cosmetic effect in the R₃ moiety of the silane-based materials is a coloring, un-stabilizing, or reducing effect. No mention of "antifungal" appears in that part of the claim. It is respectfully submitted that there is nothing in Leibskind et al. '805 that would teach or suggest the cosmetic effect recited in those claims; see applicants' arguments in the Amendment filed March 7, 2005. The rejection should be withdrawn.

U.S. Serial No. 10/089,195

Information Disclosure Statements were filed with the application and also on December 24, 2004. The Examiner is requested to acknowledge both.

In view of the foregoing revisions and remarks, it is respectfully submitted that the application is in condition for allowance, and a USPTO paper to those ends is earnestly solicited. The Examiner is requested to telephone the undersigned if additional changes are required in the case prior to allowance.

Respectfully submitted,

STEPTOE & JOHNSON LLP

A handwritten signature in black ink, appearing to read 'Charles A. Wendel', is written over the firm name 'STEPTOE & JOHNSON LLP'.

**Charles A. Wendel
Registration No. 24,453**

Date: December 8, 2005

**STEPTOE & JOHNSON LLP
1330 Connecticut Ave., N.W.
Washington, D.C. 20036
(202) 429-6415**

Enclosure: CTFA Cosmetic Ingredient Handbook, First Edition, 1988, pages 78 and 79

**CAW/cd
Attorney Docket No. 13833.0013**

CTFA

Cosmetic Ingredient

Handbook

First Edition

Editor

Joanne M. Nikitakis

BUREAU
D.A. CASALONCA-FOSSO
8, avenue Percier
75008 PARIS

Consulting Authors

Martin M. Rieger, Ph.D. and Gordon T. Hewitt, Ph.D.

Editorial Advisory Board

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PRESERVATIVES

Preservatives are ingredients which prevent or retard microbial growth and thus protect cosmetic products from spoilage. Cosmetic products can support the growth of innocuous as well as pathogenic microorganisms. The use of preservatives is required to prevent product damage caused by microorganisms and to protect the consumer from inadvertent contamination during product use. The use of more than one preservative can sometimes increase efficacy due to synergism. Ingredients used to protect products against oxidative damage are classified as *antioxidants*.

Benzic Acid
Benzyl Alcohol
Benzylparaben
5-Bromo-5-Nitro-1,3-Dioxane
2-Bromo-2-Nitropropane-1,3-Diol
Butylparaben
Calcium Propionate
Captan
Chloroacetamide
Chlorobutanol
p-Chloro-m-Cresol
4-Chlororesorcinol
Chlorothymol
Chloroxylenol
m-Cresol
o-Cresol
p-Cresol
DEDM Hydantoin
DEDM Hydantoin Disulfate
Dehydroacetic Acid
Diazolidinyl Urea
Dibromopropamide Disulfonate
DMDM Hydantoin
DMHF
Ethylparaben
Formaldehyde

Glutaral
Glyoxal
Imidazolidinyl Urea
Isobutylparaben
Isodecylparaben
Isopropyl Cresols
Isopropylparaben
Isopropyl Sorbate
MDM Hydantoin
Methylchloroisothiazolinone
Methyldibromo Glutaronitrile
Methylisothiazolinone
Methylparaben
PEG-5 DEDM Hydantoin
PEG-5 DEDM Hydantoin Oleate
PEG-15 DEDM Hydantoin
PEG-15 DEDM Hydantoin Oleate
Phenethyl Alcohol
Phenol
Phenoxydiglycol
Phenoxyethanol
Phenoxyethylparaben
Phenoxyisopropanol
Phenyl Mercuric Acetate
Phenyl Mercuric Benzoate
Phenyl Mercuric Borate

o-Phenylphenol
Polyaminopropyl Biguanide
Potassium Sorbate
Propylene Glycol Disisononanoate
Propylparaben
Quaternium-8
Quaternium-14
Quaternium-15
Sodium Benzoate
Sodium Dehydroacetate
Sodium Hydroxymethane Sulfonate
Sodium Hydroxymethylglycinate
Sodium Phenylsulfonate
Sodium Phenoxide
Sodium o-Phenylphenate
Sodium Propionate
Sodium Pyrithione
Sodium Salicylate
Sorbic Acid
TEA-Sorbate
Thimerosal
Triclocarban
Triclosan
Undecylenoyl PEG-5 Paraben
Zinc Pyrithione

PROPELLANTS

Propellants are chemicals used for expelling products from pressurized containers (aerosols). The functionality of a propellant depends on its pressure at ambient temperature and its compressibility. Liquids or gases can be used as propellants as long as the pressure developed within the container is safely below the container's bursting pressure under normal storage and use conditions.

Butane
Carbon Dioxide
Ethane
Hydrochlorofluorocarbon 22

Hydrochlorofluorocarbon 142b
Hydrofluorocarbon 152a
Isobutane
Isopentane

Nitrogen
Nitrous Oxide
Pentane
Propane

REDUCING AGENTS

Reducing agents are chemicals which during their reaction with oxidizing agents lose electrons. Reducing agents commonly contribute hydrogen to other substances. They can be used as *antioxidants* since they scavenge oxygen.

REDUCING AGENTS (Cont.)

SKIN CONDITIONING AGENTS - EMOLLIENT

Finally, reducing agents have the ability to split disulfide bonds in hair and, therefore, find use as *hair waving/straightening agents* and *depilating agents*.

Ammonium Bisulfite
Ammonium Sulfate
Ammonium Sulfite
Ammonium Thioglycolate
Cysteine
Cysteine HCl
Ethanolamine Thioglycolate
Hydroquinone

Mercaptopropionic Acid
Potassium Metabisulfite
Potassium Sulfite
Potassium Thioglycolate
Sodium Bisulfite
Sodium Hydrosulfite
Sodium Hydroxymethane Sulfonate

Sodium Metabisulfite
Sodium Sulfite
Sodium Thioglycolate
Thioglycerin
Thioglycolic Acid
Thiosalicylic Acid
Zinc Formaldehyde Sulfoxylate

SKIN BLEACHING AGENTS

Skin bleaching agents are the active ingredients used in over-the-counter (OTC) skin bleaching drug products. In a proposed rule published by the U.S. Food and Drug Administration, "Skin Bleaching Drug Products for Over-the-Counter Human Use" (47 Fed. Reg. 39108, September 3, 1982), a skin bleaching active ingredient is defined as "an agent designed to bleach or otherwise lighten limited areas of hyperpigmented skin through the suppression of melanin pigment formation within skin cells."

The listing below identifies those ingredients that were included in 47 Fed. Reg. 39108 as safe and effective in skin bleaching drug products and which have also been published in the CTFA Cosmetic Ingredient Dictionary. These ingredients have been reported to have a purely cosmetic purpose in cosmetic formulations, in addition to being safe and effective as active ingredients in drug products. To identify the currently allowed skin bleaching agents, or for information on ingredient use limitations, etc., the reader is directed to contact CTFA or the Food and Drug Administration for the most recent information concerning this drug category.

The names cited below are the established drug names as presented in 47 Fed. Reg. 39108. Whenever CTFA adopted names differ, they are presented parenthetically.

Hydroquinone

SKIN CONDITIONING AGENTS

A large number of cosmetic ingredients function as skin conditioning agents. In order to define the specific function performed by these ingredients more precisely, they have been divided into four groups: *skin conditioning agents - emollient*; *skin conditioning agents - humectant*; *skin conditioning agents - miscellaneous*; and *skin conditioning agents - occlusive*.

SKIN CONDITIONING AGENTS - EMOLLIENT

Skin conditioning agents - emollient are cosmetic ingredients which help to maintain the soft, smooth, and pliable appearance of skin. Emollients function by their ability to remain on the skin surface or in the stratum corneum to act as lubricants, to reduce flaking, and to improve the skin's appearance. Similar functions are served by *skin conditioning agents - humectant*; *skin conditioning agents - miscellaneous*; and especially *skin conditioning agents - occlusive*.